

**ASSEMBLY BILL**

**No. 1272**

**Introduced by Assembly Member Dutra**

February 21, 2003

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An act to amend Sections 11512, 14104.2, 14104.5, and 14104.7 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1272, as introduced, Dutra. Department of Motor Vehicles: administrative hearings.

Under existing law, administrative hearings involving license denials, revocations, or suspensions under the Vehicle Code are conducted by the Director of Motor Vehicles or by a hearing officer or hearing board appointed by the director from officers or employees of the Department of Motor Vehicles.

This bill would instead require those administrative hearings to be conducted by an administrative law judge on the staff of the Office of Administrative Hearings.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 11512 of the Vehicle Code is amended  
2 to read:

3 11512. (a) Upon refusal of the department to issue a license  
4 to an automobile dismantler the applicant shall be entitled to  
5 demand in writing a hearing before ~~the director or his~~

1 ~~representative~~ *an administrative law judge on the staff of the Office*  
2 *of Administrative Hearings* within 60 days after notice of refusal.

3 (b) The hearing shall be conducted pursuant to ~~the provisions~~  
4 ~~of~~ Chapter 5 (commencing with Section 11500) of Part 1 of  
5 Division 3 of Title 2 of the Government Code.

6 SEC. 2. Section 14104.2 of the Vehicle Code is amended to  
7 read:

8 14104.2. (a) Any hearing shall be conducted by ~~the director~~  
9 ~~or by a hearing officer or hearing board appointed by him or her~~  
10 ~~from officers or employees of the department~~ *administrative law*  
11 *judges on the staff of the Office of Administrative Hearings.*

12 (b) The entire proceedings at any hearing may be recorded by  
13 a phonographic recorder or by mechanical, electronic, or other  
14 means capable of reproduction or transcription.

15 SEC. 3. Section 14104.5 of the Vehicle Code is amended to  
16 read:

17 14104.5. (a) Before a hearing has commenced, the  
18 ~~department, or the hearing officer or hearing board,~~ *administrative*  
19 *law judge* shall issue subpoenas or subpoenas duces tecum, or  
20 both, at the request of any party, for attendance or production of  
21 documents at the hearing. After the hearing has commenced, the  
22 ~~department, if it is hearing the case, or the hearing officer sitting~~  
23 ~~alone, or the hearing board,~~ *administrative law judge* may issue  
24 subpoenas or subpoenas duces tecum, or both.

25 (b) Notwithstanding Section 11450.20 of the Government  
26 Code, subpoenas and subpoenas duces tecum issued in  
27 conjunction with the hearings may be served by first-class mail.

28 SEC. 4. Section 14104.7 of the Vehicle Code is amended to  
29 read:

30 14104.7. At any hearing, the ~~department~~ *administrative law*  
31 *judge* shall consider its official records and may receive sworn  
32 testimony. At the hearing, or subsequent to the hearing with the  
33 consent of the applicant or licensee, any or all of the following may  
34 be submitted as evidence concerning any fact relating to the ability  
35 of the applicant or licensee to safely operate a motor vehicle:

36 (a) Reports of attending or examining physicians and surgeons.

37 (b) Reports of special investigators appointed by the  
38 department to investigate and report upon any facts relating to the  
39 ability of the person to operate a vehicle safely.

1 (c) Properly authenticated reports of hospital records, excerpts  
2 from expert testimony received by the ~~department or a hearing~~  
3 ~~board~~ *administrative law judge* upon similar issues of scientific  
4 fact in other cases, and the prior decision of the director *or an*  
5 *administrative law judge* upon those issues.

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